

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

DIRECTV, INC.,

Plaintiff,

vs.

NO. CIV-03-1060

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

03 OCT 21 AM 11:49

*Robert M. March*  
JUDGE

KEN BATES, JIMMY CROOK,  
JAMIE DRYDEN, MICHAEL JOINSTON,  
JOHN KABLER, JEFF KIEHNE,  
MAX MARTIN, WILLIAM McKIBBIN,  
TIMOTHY MOLDEN, PIYUSH PATEL,  
MATT SCUPP and TUNG TRINH,

Defendants.

**DEFENDANT KEN BATES' MOTION TO DISMISS OR SEVER  
PLAINTIFF'S CLAIMS FOR SEPARATE TRIAL**

Defendant, Ken Bates, by his undersigned counsel, Law Office of Ilyse D. Hahs (Ilyse D. Hahs, Esq.), pursuant to Federal Rules of Civil Procedure 20 and 21, moves the Court for an order dismissing the Complaint against him or alternatively, an order severing Plaintiff's claims against Defendant for a separate trial. As grounds for this Motion, Defendant states:

1. Defendant Ken Bates and his co-defendants have been improperly joined as defendants in this case. There is no joint action by the defendants alleged and there is no allegation that the defendants acted other than independently. The claims for relief against Defendant Bates do not arise out of the same transaction or occurrence therefore, his joinder is improper and violates Fed.R.Civ.Pro 20(a).

2. As an alternative to dismissal, Defendant Bates requests Plaintiff's claims be severed to for a separate trial.

3. Defendant Bates submits concurrently herewith his Memorandum of Points and

Authorities in support of this Motion.

4. Because of the dispositive nature of this motion, concurrence from opposing counsel was not sought nor given.

WHEREFORE, Defendant Ken Bates respectfully requests this court dismiss the Complaint with prejudice or alternatively, that Plaintiff's claims against Defendant Bates be severed for separate trial; and for such other and further relief as the Court deems just and proper.

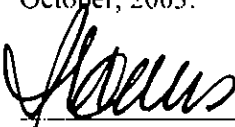
Respectfully submitted,

*Law Offices of Ilyse D. Hahs, LLC*

By: 

Ilyse D. Hahs  
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Albuquerque, NM 87104  
505 224-9661  
Attorney for Defendant Ken Bates

I hereby certify that a true and correct copy of the foregoing was served by mail to all counsel and parties entitled to notice on this 20 day of October, 2003.

  
Ilyse D. Hahs